Ling Wah Press (M) Sdn Bhd & Ors v Tan Sri Dato Vincent Tan Chee Yioun

FEDERAL COURT (KUALA LUMPUR) — CIVIL APPEALS NO 02–6 OF 1995(W), 02–5 OF 1995(W) AND 02–2 OF 1996(W)
EUSOFF CHIN CHIEF JUSTICE, WAN ADNAN CJ (MALAYA) AND CHONG SIEW FAI CJ (SABAH AND SARAWAK)
12 JANUARY 1998

Defamation *— Libel — Assessment of damages — Whether excessive and erroneous — Apology tendered — Cross-examination of plaintiff at trial aggravated libel — Whether awards of damages in defamation cases can be equated with awards of damages in personal injury cases*

In a libel action brought against the appellants, the High Court awarded RM2m against the first appellant as general and aggravated damages; RM3m as general damages against the second appellant, and RM2m as general damages against the third appellant (see [1995] 1 MLJ 39). The Court of Appeal had upheld the awards made by the High Court (see [1995] 2 MLJ 493). The appellants appealed. They argued that the awards were excessive and ought to be reduced.

Held, dismissing the appeal:

(1) The court found that the awards made by the judge and affirmed by the Court of Appeal were reasonable in the circumstances and were based on established principles of law. The appellants had failed to show that the trial judge had acted on a wrong principle of law or had misapprehended the facts or had made a wholly erroneous estimate of the damage suffered. Therefore the awards were not erroneous or excessive to warrant any interference by the court (see p 86G–H).

(2) Awards of damages in defamation cases cannot be equated with awards of damages in personal injury cases. In personal injury cases, there is no intention to cause harm or damage to the plaintiff. In defamation cases, the defendant intentionally publishes the injurious false statement to cause humiliation and anguish to the plaintiff and to injure his reputation. The award of damages given to the plaintiff in a defamation case serves as a vindication of the plaintiff to the public and as a consolation to him for a wrong done (see pp 82F–G, H, 83A).

(3) While an apology may be taken into consideration in assessing an award, in this case counsel for the appellants had by cross-examining the plaintiff at the trial had further aggravated the libel by insisting the truth of the defamatory publication. Further, no apology, retraction or withdrawal can ever be guaranteed completely to undo the harm the libel has done or the hurt it has caused (see p 85A–B).

(4) Freedom of speech is not an absolute right and is not a licence to defame people. It is subject to legal restrictions. Every person has a right to reputation and that right ought to be protected by law (see p 85E–F).

[Bahasa Malaysia summary

Di dalam suatu tindakan libel yang dibawa terhadap perayu-perayu, Mahkamah Tinggi telah mengawardkan RM2 juta terhadap perayu pertama sebagai ganti rugi awam dan ganti rugi teruk; RM3 juta sebagai ganti rugi am terhadap perayu kedua; dan RM2 juta sebagai ganti rugi am terhadap perayu ketiga (lihat [1995] 1 MLJ 39). Mahkamah Rayuan telah mengesahkan award-award yang dibuat oleh Mahkamah Tinggi (lihat [1995] 2 MLJ 493). Perayu telah merayu. Mereka menghujahkan bahawa award-award tersebut adalah melampau dan patut dikurangkan.

Diputuskan, menolak rayuan tersebut:

(1) Mahkamah mendapati bahawa award-award yang dibuat oleh hakim tersebut dan disahkan oleh Mahkamah Rayuan adalah munasabah di dalam keadaan-keadaan tersebut dan adalah berdasarkan prinsip-prinsip yang kukuh. Perayu-perayu gagal untuk menunjukkan bahawa hakim perbicaraan telah bertindak mengikut prinsip undang-undang yang salah atau telah salah faham akan fakta-fakta atau membuat anggaran yang salah akan kerugian yang dialami. Oleh itu, award-award tersebut bukanlah silap atau melampau untuk menjustifikasikan campur-tangan oleh mahkamah (lihat ms 86G–H).

(2) Award-award ganti rugi di dalam kes-kes fitnah tidak boleh disamakan dengan award-award ganti rugi di dalam kes-kes kecederaan peribadi. Di dalam kes-kes kecederaan peribadi, tiada niat untuk menyebabkan bahaya atau kerugian kepada plaintif. Di dalam kes-kes fitnah, defendan telah secara sengaja menerbitkan kenyataan salah yang menyakitkan untuk menyebabkan kesakitan dan memalukan plaintif dan untuk menjejaskan reputasinya. Award ganti rugi yang diberikan kepada plaintif di dalam kes fitnah bertujuan menyangkal pandangan awam terhadap plaintif dan bertindak untuk menyenangkannya atas kesalahan yang dilakukannya (lihat ms 82F–G, H, 83A).

(3) Sementara suatu kemaafan boleh dipertimbangkan di dalam menaksirkan award, di dalam kes ini peguam untuk perayu-perayu telah melalui pemeriksaan balas plaintif semasa perbicaraan memburukkan lagi libel tersebut dengan menegaskan kebenaran penerbitan fitnah tersebut. Selanjutnya, tiada kemaafan, penarikbalikan boleh dijamin sepenuhnya untuk memperbaiki kesan buruk libel yang telah dilakukan atau kesakitan yang diakibatkannya (lihat ms 85A–B).

A (4) Kebebasan bersuara bukanlah suatu hak mutlak dan ia bukanlah hak untuk memfitnahkan orang. Ia tertakluk kepada sekatan-sekatan undang-undang. Semua orang mempunyai hak reputasi dan hak tersebut patutlah dilindungi undang-undang (lihat ms 85E–F).]

B

Notes

For cases on libel generally, see 12 *Mallal's Digest* (4th Ed, 2000 Reissue) paras 263–352.

C **Cases referred to**

Associated Leisure Ltd (Phonographic Equipment Co Ltd) & Ors v Associated Newspapers Ltd [1970] 2 QB 450 (refd)
Associated Newspapers Ltd v Dingle [1964] AC 371 (refd)
Baltrop v Canadian Corp (1978) 86 DLR 61 (refd)
D *Blackshaw v Lord & Anor* [1984] 1 QB 1 (refd)
Cassell & Co Ltd v Broome & Anor [1972] 1 All ER 801 (refd)
Sutcliffe v Pressdam Ltd [1991] 1 QB 153 (refd)
Sutcliffe v Pressdram Ltd [1990] 1 All ER 269 (refd)
Dato' Musa bin Hitam v SH Alattas & Ors [1991] 1 CLJ 314 (refd)
Datuk Patinggi Abdul Rahman Ya'kub v Abang Mohammad bin Abang
E *Anding* [1979] 2 MLJ 185 (refd)
Davies v Powell Duffryn Associated Collieries Ltd [1942] AC 601 (refd)
Dingle v Associated Newspapers Ltd & Ors [1964] AC 371 (refd)
Hayward v Thompson & Ors [1981] 3 All ER 450 (refd)
Humphries v TWT Ltd (1993) 120 ALR 693 (refd)
F *Jeyaretnam Joshua Benjamin v Lee Kuan Yew & Anor* [1992] 2 SLR 310 (refd)
John v MGN Ltd [1997] QB 586 (refd)
Mahmod bin Kailan v Goh Seng Choon & Anor [1976] 2 MLJ 239 (refd)
MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun and other appeals
G [1995] 2 MLJ 493 (refd)
Smiths Newspaper Ltd & Anor v Becker (1932) 47 CLR 279 (refd)
Tan Sri Dato Vincent Tan Chee Yioun v Haji Hasan bin Hamzah & Ors [1995] 1 MLJ 39 (refd)

H **Legislation referred to**

Defamation Act 1957 s 18
Federal Constitution art 10

Apparao Apana (*KC Yap Kamaluddin & Partners*) for the forst appellant.

I *Karpal Singh* (*Jagdeep Singh Deo* and *Gobind Singh Deo* with him) (*Karpal Singh & Co*) for the second appellant.

Shamsul Bahrain (*Skrine & Co*) for the third and fourth appellants.

VK Lingam (*Adam Bachek* and *W Satchithnandhan* with him) (*Adam Bachek & Associates*) for the respondent. A

Eusoff Chin Chief Justice (delivering judgment of the court): These three appeals were with consent of parties, set down for hearing together. At the outset counsel for appellant Ling Wah Press Sdn Bhd informed the court that he had received no instruction to proceed, and as no one from B Ling Wah Press was present in court, the appeal was struck out with costs.

En Karpal Singh for first appellant (En MGG Pillai) drew the attention of the court to a newspaper cutting where the Chief Justice when interviewed by the press two years earlier on 24 October 1996 had expressed his views that in libel cases persons of higher status would receive C higher damages than those of lower status. He asked whether in view of that expression, the Chief Justice should disqualify himself from hearing these appeals. Both the CJes on the panel, however, felt that each case must be dealt with on its merits and that this was no good reason to disqualify a judge from hearing a case. Otherwise, a judge who has expressed his opinion on an issue in an earlier decision would not be able to hear a case involving D the same issue later on. En Karpal Singh withdrew his objection.

The Bar Council sent three of its members, Tn Hj Sulaiman Abdullah, En Mah Weng Kwai and Pn Anita Sockalingam to watch brief on the issue of quantum. The court allowed them to do so, as indeed the court is an open court and anyone can come in and go provided he does not disturb the court's proceedings. E

The facts of the case have been clearly set out both by the High Court and the Court of Appeal in their judgments which have been reported in *Tan Sri Dato Vincent Tan Chee Yioun v Haji Hasan bin Hamzah & Ors* [1995] 1 MLJ 39 and *MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun and other appeals* [1995] 2 MLJ 493 respectively, and we need not repeat F them here.

The High Court had awarded RM2m against the first appellant as general and aggravated damages; RM3m as general damages against the second appellant, En Hassan bin Hj Hamzah; and RM2m as general damages against the third appellant, Media Printex (M) Sdn Bhd. G

The Court of Appeal had upheld the awards made by the High Court.

These appeals are mainly against quantum of damages awarded. The appellants argued that they are excessive, and ought to be reduced.

It is well settled that the principle upon which an appellate court will interfere with an award of damages by a trial judge, has been laid to rest in H *Davies v Powell Duffryn Associated Collieries Ltd* [1942] AC 601, which was followed by *Dingle v Associated Newspapers Ltd & Ors* [1964] AC 371, and that is, the appellant must show that the trial judge had acted on a wrong principle of law or has misapprehended the facts or has made a wholly erroneous estimate of the damage suffered. See also *Mahmod bin Kailan v Goh Seng Choon & Anor* [1976] 2 MLJ 239 at p 240. I

Lord Wright in *Davies v Powell Duffryn Associated Colleries Ltd* had stated as follows at p 616:

> Where, however, the award is that of the judge alone, the appeal is by way of rehearing on damages as on all other issues, but as there is generally so much room for individual choice so that the assessment of damages is more like an exercise of discretion than an ordinary act of decision, the appellate court is particularly slow to reverse the trial judge on a question of the amount of damages. It is difficult to lay down any precise rule which will cover all cases, but a good general guide is given by Greer LJ in *Flint v Lovell.* In effect the court, before it interferes with an award of damages, should be satisfied that the judge has acted on a wrong principle of law, or has misapprehended the facts, or has for these or other reasons made a wholly erroneous estimate of the damage suffered. It is not enough that there is a balance of opinion or preference. The scale must go down heavily against the figure attacked if the appellate court is to interfere whether on the ground of excess or insufficiency.

Damages in a libel case are essentially matters of impression. The Federal Court of Australia in *Humphries v TWT Ltd* (1993) 120 ALR 693 at p 700 agreed with Dixon J in *Smiths Newspaper Ltd & Anor v Becker* (1932) 47 CLR 279 at p 300 who described the role to be performed by the appellate court in appeals against damages assessed by a judge in defamation cases:

> We are not in the same position as the judge at the trial for assessing damages for defamation. He has an opportunity denied to us of judging the true character of the plaintiff whose sensibility, refinement and feelings of honour are, where they exist, of no little importance when he is held up to public obloquy and infamy. So far as the conduct of the trial forms an aid in estimating the degree of impropriety involved in the publication complained of, the trial judge has peculiar advantages. The question what amount awarded to the victim of a public outrage is enough to serve at once as a solatium, vindication and compensation to him and a requital to the wrongdoer can only be solved by an exercise of a discretionary judgment, and a court of appeal should not, in my opinion, interfere and review the sum fixed unless it is able to infer from the amount adopted by the trial judge, or otherwise, that in some way his discretion must have miscarried.

The assessment of damages is the province of the trial judge, and an appellate court is not entitled to substitute its own judgment merely because it would have arrived at a different figure. Unless the verdict is so outrageously exorbitant, or shockingly excessive in relation to the libel, or manifestly unreasonable, unjust or irrational, the appellate courts should proceed with caution before making any variation in assessment of damages in libel cases.

Learned counsel for the first appellant submitted that the award of RM2m was excessive compared with awards given in other defamation cases. He said in Singapore, the highest award given in a defamation case was S$400,000. In the case of *Dato' Musa bin Hitam v SH Alattas & Ors* [1991] 1 CLJ 314, the High Court awarded RM100,000 as damages. In the case of *Datuk Patinggi Abdul Rahman Ya'kub v Abang Mohammad bin Abang Anding* [1979] 2 MLJ 185, the plaintiff was awarded RM25,000.

We find that we cannot compare a particular libel case with other libel cases. Each libel case has its own particular and peculiar facts, is unique and a class by itself. We cannot by our judgment set a precedent on the damages

to be awarded. The court must consider a number of factors when assessing damages in a libel case. In *John v MGN Ltd* [1997] QB 586 at p 607, Sir Thomas Bingham MR (now CJ) said:

> In assessing the appropriate damages for injury to reputation the most important factor is the gravity of the libel; the more closely it (the defamation) touches the plaintiff's personal integrity, professional reputation, honour, courage, loyalty and the core attributes of his personality, the more serious it is likely to be. The extent of publication is also very relevant: a libel published to millions has a greater potential to cause damage than a libel published to a handful of people. A successful plaintiff may properly look to an award of damages to vindicate his reputation: but the significance of this is much greater in a case where the defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the defendant acknowledges the falsity of what was published and publicly expresses regret that the libellous publication took place.

Damages in defamation cases are described as being at large. The law has not fixed any exact measure for assessment of damages in an action for defamation. There is no mathematical formula by which the quantum can be determined; nor is there any requirement that the damages be assessed with mathematical certainty. But a small sum awarded to a prominent public figure for a serious libel could be interpreted as trivialising the incident.

The learned counsel for the first appellant submitted that the damages awarded in defamation cases should not be more than damages awarded in personal injury (and road accident) cases because a man's arm is worth more than a man's reputation. The Court of Appeal considered this same submission, and had concluded that such proposition must be rejected. We, too, hold the same view. The Courts of England have also unequivocally rejected the comparison of libel and personal injury cases — see *Cassell & Co Ltd v Broome & Anor* [1972] 1 All ER 801; *Blackshaw v Lord & Anor* [1984] 1 QB 1; and *Sutcliffe v Pressdram Ltd* [1990] 1 All ER 269. These authoritative views supported by global authorities is that awards of damages in defamation cases cannot be equated with awards of damages in personal injury cases. In personal injury cases there is no intention to cause harm or damage to the plaintiff. If there was such an intention he would be charged with committing a criminal offence. The tort is based purely on negligence of the defendant and breach of duty of care owed to the plaintiff. The award in personal injury cases is to compensate the plaintiff for the pain and suffering which the plaintiff has suffered or will suffer in the future. The element of punishment or deterrence does not enter into an award in a personal injury cases. In defamation cases, the defendant intentionally publishes the injurious false statement to cause humiliation and anguish to the plaintiff, and to injure his reputation. True, the intention to defame the plaintiff is not necessary to impose liability on the defendant because the intention to defame can be inferred from the publication of the defamatory statement which gives rise to the presumption of malice on the part of the defendant. The plaintiff in a defamation case gets compensation not for his damaged reputation. He gets it because he was injured in his reputation by

being publicly defamed. The award of damages given to him serves as a vindication of the plaintiff to the public and as a consolation to him for a wrong done. That is why it is wrong and unfair to compare awards of damages in defamation cases with those in personal injury cases. The awards in personal injury cases for pain and suffering cannot and should not be used to provide any guidance when considering what is a reasonable award of damages in a defamation case.

The learned counsel for the first appellant argued that since his client did not file any defence, he should not have been allowed to give evidence by the court at the trial. But we note that the record of appeal shows that the first appellant had agreed to proceed with the trial. He wanted to give evidence on oath at the trial. Had the trial judge stopped him from doing so, there would have occurred a grave miscarriage of justice. By allowing the first appellant to give evidence on oath, the judge was giving him an opportunity to reduce or mitigate his liability and affording him an opportunity to apologize to the respondent. But he aggravated the injury done to the plaintiff by giving evidence on justification and fair comment.

The learned counsel for the first appellant also complained why the respondent had not taken judgment in default of defence. The Court of Appeal had dealt with this issue, and we have nothing useful to add to it. It stated in *MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun and other appeals* at p 511:

> Faced with the first appellant's default in delivering a pleading, the respondent had a choice. He could have entered interlocutory judgment and moved for an assessment of his damages. Alternatively, he could have set the action down for trial. He chose the latter course. In this he is supported by authority. It is the decision in *Nagy v Co-operative Press Ltd* [1949] 2 KB 188; [1949] 1 All ER 1019, which also concerned a libel action. The remarks of Cohen LJ (as he then was) when dealing with the precursor to O 19 r 7 are pertinent. This is what he said ([1949] 2 KB 188 at p 193; [1949] All ER 1019 at pp 1022-1023):
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> > 'Order 27 r 11, seems to me to be in its natural meaning permissive. I think the purpose of the rule was to provide a cheap method for the plaintiff to obtain in most cases the relief he seeks. But circumstances might well arise in which a real hardship would be inflicted on a plaintiff if he was compelled to proceed by a motion for judgment and could not exercise the right which he would otherwise have had of setting down the case for trial and letting it come on for trial in the usual way.'
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> In my judgment, a plaintiff in a libel action is not bound to enter default judgment. I certainly see no such compulsion in the language of O 19 r 7 of the Rules of the High Court 1980. He is entitled to proceed and to set the action down for hearing for the purpose of vindicating his reputation and to have his damages assessed. I do not think that it lies in the mouth of a defendant who has publicly assailed a person's character to suggest that vindication ought not to be properly obtained.
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> The hearing of the action commenced on 10 October 1994, having been set down for trial pursuant to an order for directions made on 22 August 1994. It has been suggested that the action had come up for trial with undue haste. But this suggestion overlooks the fact that none but the second appellant had

> delivered a defence. If, in the ordinary way, there had been a motion or summons for judgment that would no doubt have come on much earlier and the very same result achieved with one important difference. The evidence of the respondent would in that event have been confined to an affidavit. The judge would not have been able to see and gauge the respondent's demeanour and this may have well affected the size of the award. More importantly, the respondent would have lost the chance of denying the libel from the witness box, in the eye of the very same public before whom he was held up to ridicule. These are matters of practical concern to lawyers who practise in this area of the law.
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> The question then arises: should a plaintiff suffer delay in the vindication of his character because he chooses not to take advantage of a defendant's default in delivering his defence? I would answer that question in the most vehement negative. To my mind, it does not seem right that merely because a plaintiff in a libel action elects not to opt for a less expensive method provided by the rules of court, he should be made to wait for several years in order to clear his name as against a defendant who displays little or no interest in the proceedings.

Learned counsel for the second and third appellants raised the issue of s 18 of the Defamation Act 1957. The Court of Appeal had dealt at length on this issue — see *MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun and other appeals* at pp 529–531, and held that 'the short answer to the submission mounted on s 18 is that it was never raised before the learned judge, a fact that was conceded by counsel, and it is therefore too late in the day to argue it on appeal'. But the reasons for making separate awards were obvious. There were four separate articles in three different issues of the magazine. The culpability and liability of each of the defendants in the High Court is different for the reasons that: (i) the four articles were written by four different writers; (ii) although all the articles attacked the plaintiff there is a difference in the gravity and degree of each attack; (iii) the first appellant here relied on justification and aggravated the libel and he showed no remorse; (iv) two writers had apologized to the plaintiff in the court and this was a mitigating factor; (v) the second appellant had openly admitted liability and had agreed that the articles had defamed the plaintiff; and (vi) the court had done justice to the parties by taking these factors into account and made separate awards. The trial judge was therefore correct in finding the several defendants liable as several tortfeasors and not as joint tortfeasors. In *Hayward v Thompson & Ors* [1981] 3 All ER 450 at p 458 Lord Denning MR held:

> More to the point would have been the observations of Lord Hailsham LC in *Broome v Cassell & Co Ltd* [1972] 1 All ER 801 at p 817 when he said that both in exemplary damages and in aggravated damages, the jury must award 'the *lowest*' sum for which any of the defendants can be held liable on this score' (Lord Hailsham LC's emphasis). I do not think that this is at all satisfactory. Suppose there are some circumstances of aggravation available against the Sunday Telegraph. There may be other circumstances of aggravation against Mr House. Likewise there may be mitigating circumstances in the one and not in the other. No one can say what is the 'lowest' sum.

A The learned counsel for the second and third appellants had argued that the award should be reduced because these appellants had published their apologies (see pp 389–390 of the appeal record). While an apology may be taken into consideration in assessing an award, in this case the counsel for the second and third appellants had by cross-examining the plaintiff at the trial had further aggravated the libel by insisting the truth of the defamatory B publication. The sad truth is that no apology, retraction or withdrawal can ever be guaranteed completely to undo the harm the libel has done, or the hurt it has caused — see *Associated Newspapers Ltd v Dingle* [1964] AC 371 at p 399.

The learned counsel for the second and third appellants also alleged C that the Court of Appeal had awarded exemplary damages and aggravated damages against them. The fact is that the Court of Appeal did not do so. The High Court had only awarded general damages, which the Court of Appeal did not disturb but upheld. The Court of Appeal, when considering the issue of apology raised by the second and third appellants had stated *MGG Pillai v Tan Sri Dato Vincent Tan Chee Yioun and other appeals* at p 527 D as follows:

> An apology, although not exonerating a defendant, has the effect of reducing and in some cases substantially reducing the quantum of damages. The corollary of this proposition is that where the purported apology in effect aggravates the libel, a court will be entitled to award aggravated and exemplary damages to reflect its disapproval of the defamer's conduct.

E

Counsel also submitted that large damages if allowed to stand would have a chilling effect on the freedom of speech and expression as guaranteed by art 10 of the Federal Constitution. We are of the view that freedom of speech is not an absolute right. Freedom of speech is not a licence to defame people. It is subject to legal restrictions. An absolute or unrestricted right to F free speech would result in persons recklessly maligning others with impunity, and the exercise of such right would do the public more harm than good. Every person has a right to reputation and that right ought to be protected by law — *Jeyaretnam Joshua Benjamin v Lee Kuan Yew & Anor* [1992] 2 SLR 310 at p 332.

G Article 10 of the Federal Constitution itself while guaranteeing every citizen the right to freedom of speech and expression has imposed restrictions by authorizing Parliament to enact laws which it deems necessary to provide against contempt of court, defamation or incitement to any offence.

H But, one must not forget that the 'chilling' effect that a large amount of damages has on the freedom of speech is nothing or is too mild compared to the great pains and sufferings that the libel had inflicted upon the respondent due to the venomous accusations made by the appellants against the respondent.

We have considered whether the award of RM2m damages against the I first appellant is excessive. We do not think so. The first appellant relied on justification which is a very serious plea. In the course of giving evidence he had repeated the defamatory statements. He is a prominent journalist of

international standing and has a large following. We find that the trial judge had taken all relevant factors and circumstances of the case into consideration, and had also considered all the leading authorities to justify his award of general and aggravated damages against the first appellant who showed no remorse or apology to the respondent. Lord Denning in the *Associated Leisure Ltd (Phonographic Equipment Co Ltd) & Ors v Associated Newspapers Ltd* [1970] 2 QB 450 at p 455 stated:

> The defendants, in putting this plea of justification on the record, run a very grave risk. If it fails, the damages, which might otherwise have been modest, would now be colossal.

Nourse LJ in *Sutcliffe v Pressdram Ltd* [1991] 1 QB 153 at p 184 held:

> The conduct of a defendant which may often be regarded as aggravating the injury to the plaintiff's feelings, so as to support a claim for 'aggravated' damages, includes a failure to make any or any sufficient apology and withdrawal; and a repetition of the libel ... persistence by way of prolonged or hostile cross-examination of the plaintiff ... .

In *Baltrop v Canadian Corp* (1978) 86 DLR 61 at p 79 (NSSC App Div) the court held:

> Serious damage to reputation requires heavy compensation, even if no specific loss is or can be shown. Here, a man of international reputation is vilified in the eyes of his professional confreres. He thus suffers greatly, though he may not lose a single dollar.

As regards the general damages awarded against the second and third appellants, we too find no good reasons to interfere. The trial judge had considered all the relevant factors, circumstances and the leading authorities. The Court of Appeal had affirmed the awards made. Serious and grave allegations of corruption and underhand dealings had been made against the respondent. An apology can never undo the harm done to the respondent. Low and cheap awards will only send the wrong signal, and will become a licence to libel the respondent and other people with impunity. Appropriate awards must be made to nail the falsity of the allegations and to vindicate the respondent.

We find the awards made by the judge and affirmed by the Court of Appeal are reasonable in the circumstances, and are based on established principles of law. The appellants have failed to show to us that the trial judge had acted on a wrong principle of law or has misapprehended the facts or has made a wholly erroneous estimate of the damage suffered. Therefore the awards are not erroneous or excessive to warrant any interference by this court.

We, therefore dismiss these appeals with costs.

Appeal dismissed.

Reported by Jafisah Jaafar